

Bush Tries to Shrink S.E.C. Raise Intended for Corporate Cleanup

Asks Congress to Cut Budget Increase He Signed

By STEPHEN LABATON

WASHINGTON, Oct. 18 — Less than three months ago, President Bush signed with great fanfare sweeping corporate antifraud legislation that called for a huge increase in the budget of the Securities and Exchange Commission to police corporate America and clean up Wall Street.

Now the White House is backing off the budget provision and urging Congress to provide the agency with 27 percent less money than the new law authorized.

Administration officials say that their proposed increase is enough and that other budgetary needs, like the military and security against terrorism, make it impossible to afford more.

The decision has angered commission officials and Democratic lawmakers, who say that it reflects the administration's calculation that corporate scandals have begun to recede as a political issue. They say that the administration's more modest increase will not be able to pay for the expanded role of the agency, bring salaries up to levels at other financial regulatory agencies, finance the start-up costs of an accounting oversight board and significantly expand a staff that is already overwhelmed.

Under the corporate clean-up legislation, the commission's budget — which for years has barely kept up with inflation, let alone the steep rise in stock ownership — was authorized to increase by 77 percent, to \$776 million. But as Congress wrestles with the spending measures that actually appropriate money to federal agencies, the White House is requesting \$568 million for the S.E.C., officials said, or an increase of about 30 percent over last year's budget of \$438 million.

Harvey L. Pitt, the commission's chairman, has acknowledged through a spokesman that the administration's level of financing will not allow it to undertake important initiatives.

The White House has put Mr. Pitt in the awkward position of having to choose between Congressional Democrats who want a larger budget and administration officials who want less. Brian Gross, the commission's director of communications, said that Mr. Pitt was concerned that the agency would not be able to do many of the technology and enforcement projects that he would like if the commission received only what the White House has recommended.

"It doesn't allow for a lot of new initiatives," Mr. Gross said. On the other hand, he said, Mr. Pitt appreciates that the White House has to juggle other budget issues that would prompt the administration to support the lower figure.

The commission's budget became a major political issue as the wave of corporate scandals illustrated the agency's difficulties in policing major public companies and Wall Street. Through most of the year, the administration opposed calls by Democrats for bigger increases in the agency's spending allocation. But after the collapse of WorldCom this summer, the president cited the larger spending increase when he signed the corporate overhaul measure, known for its prime sponsors as the Sarbanes-Oxley Act, at a ceremony in the East Room on July 30.

"Corporate misdeeds will be found and will be punished," Mr. Bush said

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then. "This law authorizes new funding for investigators and technology at the Securities and Exchange Commission to uncover wrongdoing."

The commission's finances have become a casualty of political gridlock between Congress and the administration over the budget for the entire government. Congress has passed temporary spending measures set at last year's budget levels to keep the government operating at least through the end of November.

Two months ago, the commission received an increase of \$30 million

'We didn't pull the \$776 million out of a hat,' a senator says of the amount.

over its \$438 million budget from last year, which was widely considered inadequate, to begin hiring another 100 staff members to join its 3,100 current employees. As a result, nearly a year after those corporate scandals began with the collapse of Enron, commission officials say that they have struggled to keep up with their growing responsibilities and caseload.

Senior agency officials say that they are still unable to open many of the investigations that they want and that, as cases near trial, they will be stretched thin. The agency's computer systems have not been updated in many years. The agency is unable to review the vast majority of corpo-

rate documents filed every day. And one investment house alone, Merrill Lynch, has more professionals in its legal and compliance departments than the commission's entire enforcement staff.

The problems were supposed to be fixed by the Sarbanes-Oxley Act, which set a \$776 million authorized budget. But now, administration officials say Mr. Bush supports a more modest increase, of \$130 million, to \$568 million.

"The president does believe the S.E.C. has a substantial mission, and we think \$568 million is sufficient to carry that out," said Amy Call, a spokeswoman for the White House Office of Management and Budget.

Administration officials say that the budget figure in the law is too high, considering other needs. They say that the agency would be able to carry out more investigations, increase its work force and raise pay levels with the more modest budget proposed by the White House.

Briefing reporters aboard Air Force One, Ari Fleischer, the president's spokesman, said it was a major accomplishment that Congress recessed without increasing any spending.

"Typically, when Congress leaves, they pay an exit fee, where spending is increased above and beyond what the Congressional budget authorized, and the taxpayers are always the victims," Mr. Fleischer said. "This year, the chain was broken."

Senator Paul S. Sarbanes, the Maryland Democrat who was the principal author of the legislation, called the White House position "disheartening" and said that its proposed budget would fall far short of what is necessary for the agency to be effective.

"I can't understand why they are taking this position," he said. "We



Agence France-Presse

President Bush on July 30, signing the Sarbanes-Oxley Act, which in part authorized an increase of the S.E.C. budget to \$776 million. Now, however, the White House has scaled that figure back to \$568 million.

didn't pull the \$776 million out of a hat. The costs of increasing pay, hiring new staff and increasing the volume of their business presents a case for a higher budget that is overwhelming."

The law calls for \$102 million for raises and \$108 million for better computer systems and financing for restoring the agency after the Sept. 11 attacks that destroyed its New York offices. It also proposed \$98 million to pay for 200 additional auditors, investigators and prosecutors. Budget officials estimate that the new accounting board will need \$25 million to \$50 million to start. That money is to come from the commission's budget and be repaid later by the accounting profession.

In July, shortly before the measure was adopted, a Senate committee led by Ernest F. Hollings, Democrat of South Carolina, passed a \$750.5 million appropriations measure for the commission. The measure has since languished as Demo-

crats and Republicans have been unable to reach agreement in the House and the Senate on the federal budget.

Democrats said that the White House position reflected the calculation that the corporate scandals have moved to the back burner, and therefore the White House does not need to honor the provision in the legislation that calls for the higher financing.

"My sense is this is a White House that is sensing some political relief that this is no longer the issue on the table so they can take a political pass on this," said Senator Christopher Dodd, the Connecticut Democrat who heads the Senate Banking subcommittee on securities and investment. "They touched the critical issues last summer, and now it's gone. Now the issue is Iraq all the time."

"I think they are politically mistaken and also dangerous substantively," Mr. Dodd said. "You have to have the resources and do the job. You need the right cops on the beat to get it done."

New SEC Oversight Panel Awaits Budget Resolution

By MICHAEL SCHROEDER

WASHINGTON—Lawmakers' failure to approve a new federal budget is threatening the Securities and Exchange Commission's ability to carry out congressional mandates aimed at better protecting investors, including creation of an accounting-oversight board.

Setting up the new accounting panel may be impossible if Congress doesn't soon approve the additional money the SEC has been promised. Complicating matters further, the agency is caught in the middle of a fight between Congress and the Bush administration over the size of the SEC's planned budget increase.

"The SEC has been left in the worst of all possible worlds—promised large increases, but receiving nothing," said SEC Communications Director Brian Gross. In addition to being unable to hire new commission staff and upgrade technology, the budget gridlock "raises serious questions about the funding of the new accounting-oversight board," he said.

This summer, Congress passed and President Bush signed into law the Sarbanes-Oxley Act, authorizing a 77% SEC budget increase—to \$776 million from the current \$438—to fund much-expanded enforcement, a bigger staff for reviewing corporate financial reports and across-the-board raises for agency staff. But in juggling the budget needs of numerous other agencies, the White House now seeks to cap the SEC budget at \$568 million.

The Senate Appropriations Committee

gave initial approval in July to a record \$750 million SEC budget—slightly less than the Sarbanes-Oxley Act recommended. Since then, the House and Senate have failed to agree on a final budget.

Congress recently approved a measure to fund most government agencies at last year's budget outlays through Nov. 22. At that level, the SEC says it would be hard-pressed to pay the accounting board's first-year expenses, which could reach \$50 million. The legislation requires the SEC to "advance" the start-up costs of the organization; the agency will be reimbursed later from fees collected from accounting firms and public companies that will be used to permanently fund the new board.

If Congress doesn't soon appropriate at least \$750 million, said SEC Commissioner Harvey Goldschmid, "It will be disaster for us. It will create cash-flow problems."

By law, the SEC must name the five members of the new panel, the Public Company Accounting Oversight Board, by next Monday. Board members, who are expected to be paid about \$400,000 a year, will begin meeting in a few weeks. The SEC also must provide money for the board's legal counsel, office space, and technical and professional staff.

SEC Chairman Harvey Pitt said last week that the agency is close to naming the board members. The decision was delayed over a disagreement regarding the choice for the chairman's slot. The SEC is narrowing possible candidates for that post following a dispute over the candidacy of John Biggs, chief of university teacher pension fund TIAA-CREF. Though Mr.

Biggs is still considered a possible choice, Capitol Hill Republicans and the accounting industry remain wary of his record of reining in his fund's outside auditors.

At the top of the list now is William Webster, a former director of the Central Intelligence Agency and the Federal Bureau of Investigation. Others receiving serious consideration are Susan Phillips, dean of the George Washington University business school here, who is a former Federal Reserve governor, and Mary Schapiro, vice chairman of the NASD, formerly the National Association of Securities Dealers.

The commission has plenty of candidates for the four remaining board slots. The front-runners for the two professional-accountant seats are Donald Kirk, a past chairman of the Financial Accounting Standards Board, and Charles Niemeier, the chief accountant in the SEC's enforcement division.

Among the leading candidates for the public board members are Kayla Gillan, former general counsel of the California Public Employees' Retirement System, and Denise Voigt Crawford, securities commissioner for the state of Texas.

Under Pressure from Democrats, Bush Offers to Increase SEC Budget

By MICHAEL SCHROEDER
And JOHN D. MCKINNON

WASHINGTON—Responding to Democrats' complaints that the White House is trying to shortchange the Securities and Exchange Commission, the Bush administration offered to increase its budget request for the strapped agency.

President Bush's budget director, Mitchell Daniels Jr., said in an interview that the administration would provide more than the \$568 million annual budget it previously requested for the SEC, if the agency needs more money to fulfill its newly mandated duties. He didn't specify an appropriate size for an increase.

Separately, SEC Chairman Harvey Pitt said in a speech last night that the agency responded to this year's spate of high-profile accounting scandals by filing a record 598 enforcement cases during the fiscal year that ended Sept. 30, up 24% from 484 in 2001.

This summer, Congress passed and President Bush signed into law the Sarbanes-Oxley Act, authorizing a 77% SEC budget increase—to \$776 million from the current \$438 million—to fund much-expanded enforcement, a bigger staff for reviewing corporate financial reports and across-the-board raises. But in juggling budget needs for various agencies, the White House has sought SEC funding of \$200 million less than Congress requested.



Harvey Pitt

The Senate Appropriations Committee in July initially approved a record \$750 million SEC budget. Congress's final decision on SEC funding is hung up in spending bills that lawmakers failed to pass before adjourning to campaign for midterm elections.

The additional money that Sarbanes-Oxley called for includes \$102 million for SEC staff raises; \$98 million to pay for 200 additional auditors, investigators and attorneys; and \$108 million for better computer systems and to pay for new regional offices in New York, which were destroyed in the Sept. 11 attacks. Under the White House budget request, the agency would have to forgo most of that money.

Sen. Paul Sarbanes (D., Md.), chairman of the Senate Banking Committee and co-author of the bill, sent Mr. Bush a letter warning that the SEC's "effectiveness will be seriously compromised" unless it gets more money.

Mr. Daniels sought to downplay concern about the SEC budget, saying, "We're talking about the difference between a huge increase and a gigantic one." He said the White House request was based on Mr. Pitt's own request and was arrived at before Sarbanes-Oxley passed.

The \$568 million "is not an arbitrary number, it was Chairman Pitt's request, every penny," Mr. Daniels said. "And subsequently they passed Sarbanes-Oxley, and if that means in the next 12 months he needs more, we'll try to accommodate it." He suggested Mr. Pitt already may be working on a new request.

While the SEC's resources are stretched, the enforcement staff worked harder and faster this past year to clamp down on financial wrongdoing, Mr. Pitt said at a directors' education institute at Duke University in North Carolina.

"The scandals underscore what we already knew—confidence cannot be maintained if the public believes that corporate leaders, their advisers or their cohorts are 'gaming' the system and focusing principally, if not exclusively, on their own personal gains," Mr. Pitt said.

He added, "We must reassure investors that such abuses of the system are not, and will not be allowed to become, the norm in American business."

The SEC enforcement team, led by Stephen Cutler, brought more accounting-fraud cases than ever—163 last year, 46% higher than the 112 filed in 2001. The fast pace—part of Mr. Pitt's "real-time" enforcement—is impressive because accounting fraud usually involves the most complicated and time-consuming inquiries.

As part of those cases, the SEC sought to ban 128 executives and directors from working in corporate boardrooms, well more than double what it sought in the previous year. It also ordered defendants in all 2002 cases to surrender \$1.32 billion in ill-gotten gains, more than double the funds sought the year earlier.

Bush to Consider More S.E.C. Financing

WASHINGTON, Oct. 23 (Bloomberg News) — The Bush administration said today that it would consider increasing financing for the Securities and Exchange Commission beyond a 30 percent increase that White House officials last week said was enough for the agency.

"We will work with the Congress to make sure" the commission "has the resources it needs," the White House spokesman, Ari Fleischer, said today.

The S.E.C. requested \$568 million for the current fiscal year, a 30 percent increase. Congress called for a 77 percent increase in legislation setting up a new board to review ac-

counting standards after Enron and WorldCom declared bankruptcy. Last year's S.E.C. budget was \$438 million.

Final financing for the agency will be worked out when Congress returns after the Nov. 5 elections.

Democrats including Representative Edward J. Markey of Massachusetts said President Bush's refusal to support the full \$776 million Congressional budget increase for the S.E.C. was an example of Republican foot-dragging on corporate accountability measures needed to restore investors' and workers' confidence.

The commission is conducting a record number of investigations, said a spokesman, Brian Gross.

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